IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION NO.2853 OF 1999

Dr.Tarachand Dwarkadas Sharma & Anr...Petitioners

Vs.

Brihanmumbai Municipal

Corporation & Ors ....Respondents

Mr. D.H. Mehta i/b. M/s.S.Pathak & Co., for
the Petitioners
Ms. A.K. Savla for respondent Nos. 1 to 3.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATE: 27TH NOVEMBER,2006

P.C.

. The Plot in respect of which the petitioner seeks development under the D.P. plan is reserved for a hospital. The petitioner's plot admeasures about 500 sq. meters. The reservation including other plots totally admeasuring 40,000 sq. meters. The petitioner had sought development only in respect of 500 sq.meters.

. Taking into consideration the provisions of Regulation 9(4) of the Development Control Regulations for Greater Mumbai, 1991 and after hearing the Counsel, we are of the considered opinion that if the owners seek to develop then such a person must be the owner of the entire reservation or all the owners must come together to carry out the project of the D.P. Plan. It is not possible to

countenance an argument that each owner on his plot of land can put up a hospital. That would defeat the very object of the D.P. Plan. Considering that this will not be possible for us in the exercise of extra ordinary jurisdiction to grant the relief as prayed for.

2. However, it will be open tot the petitioner to comply with the statutory requirement of the M.R.T.P. Act by giving notice under Section 127 of the M.R.T.P. Act and/or to make any representation to which they are entitled to. With the above observation petition disposed of.

(**F.I. REBELLO, J)**

(**ANOOP V. MOHTA J).**